IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

WP(C).No. 32907 of 2006(S)

PETITIONER:

C.R.DAMODARAN NAIR,
CHERUVATHOOR HOUSE,
ONAKOOR P.O., PAMPAKUDA-686667,
ERNAKULAM DISTRICT.

BY ADV. SRI.MARTIN D.ALUMKARA
SRI.MOHAN IDICULLA ABRAHAM
SMT.PUSHPY B.MURICKEN

RESPONDENTS:
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1. THE DISTRICT PANCHAYATH, ERNAKULAM,
REP. BY ITS SECRETARY,
KAKKANAD P.O.

2. THE CHIEF SECRETARY,
GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM.

3. THE PRINCIPAL SECRETARY,
DEPT. OF LOCAL SELF GOVERNMENT,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

4. DISTRICT COLLECTOR,
ERNAKULAM.

BY GOVERNMENT PLEADER MR.T.B.HOOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.P.(C) No.32907 of 2006

Dated, this the 13th day of December, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

C.R.Damodaran Nair, a retired government servant, has filed this petition under Article 226 of the Constitution of India by way of public interest litigation, seeking a writ in the nature of mandamus directing the District Panchayat, Ernakulam, the first respondent herein, to consider and dispose of Ext.P2 representation submitted by him and also to direct the other respondents not to construct the proposed District Ayurveda Hospital on Banerji Road, Kacheripady, Ernakulam. Primarily, it is the case of the petitioner that the decision of the respondents to establish the Ayurveda Hospital in a highly polluted and congested area in the city would be in violation of the right of the petitioner and the people of the District Panchayat area to get treatment in a healthy atmosphere and it would contravene the provisions contained in Article 21 of the Constitution of India.

2. We have heard learned counsel for the petitioner and examined the records. We do not find any merit in the petition at all. It is not a case of new establishment or construction of a

hospital. The hospital is already there. It is the case of reconstruction of the hospital. That apart, with the modern technology it cannot be said that the hospital even though in a thickly populated area would result into treatment in a non-healthy atmosphere. The hospital which caters for the requirement of sick people is a necessity. It is common knowledge that there are far less hospitals commensurate to the patients. That apart, opening up of a hospital is always in the discretion of the administration and unless the decision to open the hospital is shown to be perverse or harmful, such administrative decisions could not be interfered by this Court in its jurisdiction under Article 226 of the Constitution of India. The present petition far from being in public interest appears to be anti public. Dismissed.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns